



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,228	09/16/2003	Stephen J Brown	7553.00096 / 03-0920	2227

60683 7590 01/08/2010
HEALTH HERO NETWORK, INC.
2400 GENG ROAD, SUITE 200
PALO ALTO, CA 94303

EXAMINER

FRENEL, VANEL

ART UNIT	PAPER NUMBER
----------	--------------

3687

MAIL DATE	DELIVERY MODE
-----------	---------------

01/08/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/605,228	Applicant(s) BROWN, STEPHEN J	
	Examiner VANEL FRENEL	Art Unit 3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-92 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-92 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Amendment filed on 9/28/09. Claims 1-92 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu et al. (4,803,625) in view of Lee (4,838,275) and in further in view of Kirk et al. (5,390,238).

As per claim 1, Fu discloses a networked health-monitoring system comprising: a plurality of remote patient sites, each site “associated with a respective patient and” including “a patient device comprising” at least one display (See Fu, Fig.2; Co1.5, lines 53-68); a data management unit configured to facilitate collection of patient health-related data (See Fu, Co1.3, lines 28-45); a memory (See Fu, Co1.3, lines 28-45); and stored program instructions for generating health-monitoring related information on the “respective” display (See Fu, Fig.2; Co1.3, lines 28-45).

Fu does not explicitly disclose at least one central server connectable for communication with the “patient device” at each of the remote” patient sites, wherein the

Art Unit: 3687

system is configured to allow a patient at a remote patient site to control presentation display of health- monitoring related information “to the respective patient on the respective display.

However, this feature is known in the art, as evidenced by Lee. In particular, Lee suggests that the system has at least one central server connectable for communication with the “patient device” at each of the remote patient sites, wherein the stored program instructions when executed allow the respective patient at a remote patient site to control presentation of health-monitoring related information “to the respective patient on the respective display (See Lee, Co1.5, lines 64-68 to Co1.6, line 25).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Lee within the system Fu with the motivation of receiving the results of all such emergency measurements by remote data transmission into central office and displaying the results of the emergency measurements for emergency review by the observer (See Lee, Co1.7, line 15-19).

In addition, as best understood, Fu and Lee disclose all the limitations above. The combination of Fu and Lee does not explicitly disclose a plurality of remote patient sites, each site “associated with a respective patient and” including “a patient device.

However, this feature is known in the art, as evidenced by Kirk. In particular, Kirk suggests that the network having a plurality of remote patient sites, each site “associated with a respective patient and” including “a patient device (See Kirk, Fig.3; Fig.5; Col.3, lines 43-68).

Art Unit: 3687

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Kirk within the teachings of Lee and Fu with the motivation of providing a new and improved apparatus for health care support. It is a further advantage of the present invention to provide a new and improved health care support method. It is still a further advantage of the present invention to provide a method and apparatus for health care support which economically provides medication control, wellness checking and patient data accumulation and reporting capability (See Kirk, Co1.1, lines 50-60).

As per claim 2, Fu discloses the system, “wherein the stored instructions program are further configured to allow the respective patient to control the presentation of health-monitoring related information using at least one menu (See Fu, Co1.5, lines 6-15; Co1.10, lines 1-14).

As per claim 3, Fu discloses the system, wherein the at least one menu allows a patient to select any one operational mode from the set consisting of: a display mode for displaying relevant information (See Fu, Co1.5, lines 53-68); an input mode for providing information (See Fu, Co1.5, lines 53-68); and a communications mode for establishing a link with the central server (See Fu, Co1.1, lines 43-64).

As per claim 4, Fu discloses the system further comprising at least one health-monitoring device configured to monitor at at least one patient health condition at least

Art Unit: 3687

one remote patient site (See Fu, Col.5, lines 53-68); and to communicate data related to the monitored condition to the central server (See Fu, Co1.1, lines 43-64).

As per claim 5, Fu discloses the system wherein the at least one menu allows a patient to select a monitoring mode in which at least one of the health-monitoring devices is used (See Fu, Col.5, lines 1-15; Col.6, lines 46-54).

As per claim 6, Lee discloses the system wherein the at least one menu allows a patient to display messages or instructions from a health care professional (See Lee, Co1.16, lines 39-43).

As per claim 7, Lee discloses the system, wherein the system is configured to enable the patient to respond to information on the display by using a cursor or other indicator positioned at a selected item (See Lee, Co1.13, lines 5-16).

As per claim 8, Fu discloses the system wherein the at least one of the health-monitoring devices is one or more of the set consisting of a blood glucose monitor; a peak flow meter; a blood pressure monitor; a pulse monitor; and a body temperature monitor (See Fu, Col.5, lines 7-14).

As per claim 9, Lee discloses the system wherein the data management unit facilitates collection of health-related data by receiving data related to the monitored

Art Unit: 3687

condition from at least one of the health-monitoring devices (See Lee, Col.5, lines 64-68 to Col.6, line 25).

As per claim 10, Fu discloses the system wherein the data management unit is configured to facilitate collection of health-related data entered by a patient at the remote patient site using buttons, keys or switches (See Fu, Col.2, lines 16-43).

As per claim 11, Fu discloses the system wherein the data management unit is physically separate from the display (See Fu, Col.6, lines 46-54).

As per claim 12, Fu discloses the system wherein the memory and the display are in at least one of the health-monitoring devices (See Fu, Col.5, lines 1-15).

As per claim 13, Fu discloses the system wherein the display is in a hand-held device (See Fu, Col.11, lines 24-34).

As per claim 14, Fu discloses the system, wherein the handheld device is capable of displaying pictorial health-monitoring related information (See Fu, Col.5, lines 1-15).

As per claim 15, Fu discloses the system wherein the handheld device is capable of displaying animated health-monitoring related information (See Fu, Col.5, lines 1-15).
As per claim 16, Lee discloses the system wherein the memory is a program cartridge

Art Unit: 3687

(See Lee, Co1.11, lines 49-63).

As per claim 17, Fu discloses the system wherein the remote sites further include at least one personal computer connected to the data management unit (See Fu, Co1.10, lines 1-14 and lines 28-61).

As per claim 18, Lee discloses the system wherein the system produces reports based on collected patient health-related data (See Lee, Col. 16, lines 39-43).

As per claim 19, Lee discloses the system wherein the reports are standardized (See Lee, Co1.13, lines 5-15).

As per claim 20, Fu discloses the system further configured to provide at least one health care professional, remotely located from the patient sties, with reports based on the patient health-related data collected at the remote patient sites (See Fu, Col.5, lines 15-38).

As per claim 21, Lee discloses the system wherein the system is configured to allow a health care professional to select which of a plurality of standardized reports is produced (See Lee, Co1.13, lines 5-15).

As per claim 22, Lee discloses the system wherein the reports use graphs and/or icons (See Lee, Co1.13, lines 5-16).

As per claim 23, Fu discloses the system wherein the reports can be generated periodically (See Fu, Co1.5, lines 19-41).

As per claim 24, Lee discloses the system wherein the server can generate the report (See Lee, Co1.13, lines 5-15).

As per claim 25, Fu discloses the system wherein the system can also display at least one report on a display at a remote patient site (See Fu, Co1.4, lines 25-43).

As per claim 26, Lee discloses the system wherein the system can display statistical and/or trend information (See Lee, Co1.13, lines 12-17).

As per claim 27, Lee discloses the system wherein the system can display statistical or trend information to the patient (See Lee, Co1.13, lines 12-17).

As per claim 28, Fu discloses the system wherein the report includes information data for a period of time (See Fu, Co1.13, lines 5-16).

Art Unit: 3687

As per claim 29, Fu discloses the system wherein the system is configured to transmit at least one message for display on at least one display (See Fu, Co1.6, lines 46-54).

As per claim 30, Fu discloses the system wherein the message includes step-by-step instructions (See Fu, Co1.10, lines 1-14 and lines 28-61).

As per claim 31, Lee discloses the system wherein the message includes results of a test (See Lee, Co1.16, lines 39-43).

As per claim 32, Lee discloses the system wherein the message includes diagnostic information indicating whether a test has proceeded in a normal fashion (See Lee, Co1.16, lines 39-43).

As per claim 33, Lee discloses the system wherein the message is a multi-line message (See Lee, Co1.16, lines 39-43).

As per claim 34, Lee discloses the system wherein the message is a health care professional selected message (See Lee, Co1.16, lines 39-43).

As per claim 35, Lee discloses the system wherein the healthcare professional generates the selected message (See Lee, Co1.16, lines 39-43).

As per claim 37, Fu discloses the system wherein the system is configured to transmit a message to a specific patient (See Fu, Col.5, lines 53-68).

As per claim 38, Fu discloses the system wherein the system is configured to transmit the message automatically to the patient (See Fu, Col.5, lines 53-68).

As per claim 39, Fu discloses the system, wherein the system is configured to transmit the message to the patient when the patient chooses (See Fu, Col.5, lines 53-68).

As per claim 40, Lee discloses the system wherein the message can be stored before being transmitted to the patient (See Lee, Col.5, lines 53-68).

As per claim 41, Fu discloses the system wherein the system is configured to transmit programs, over the communication link, for storage in a memory and execution at a remote patient site (See Fu, Col.5, lines 53-68; Col.6, lines 52-57).

As per claim 42, Lee discloses the system wherein the patient can indicate user experienced symptoms to the system (See Lee, Co1.16, lines 39-43).

Art Unit: 3687

As per claim 43, Lee discloses the system wherein the system can capture quantitative measurements (See Lee, Co1.16, lines 39-43).

As per claim 44, Lee discloses the system wherein the system can capture medication data (See Lee, Co1.16, lines 39-43).

As per claim 45, Lee discloses the system wherein the collected patient health-related data includes time data (See Lee, Co1.16, lines 39-43).

As per claim 46, Fu discloses the system wherein the healthcare professional computer receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user (See Fu, Col.5, lines 44-62).

Claims 47-92 recite the same limitations as those of claims 1-46 are therefore rejected for the same reasons given above, and incorporated herein.

Response to Arguments

4. Applicant's arguments filed on 9/28/09 with respect to claims 1-92 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3687

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANEL FRENEL whose telephone number is (571)272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent

Art Unit: 3687

Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vanel Frenel/

Primary Examiner, Art Unit 3687

January 2, 2010